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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,950	12/13/2006	Masahiro Nakazaki	0020-5466PUS1	9326
2292 7590 09/17/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER KHAN, AMINA S	
			ART UNIT 1751	PAPER NUMBER
			NOTIFICATION DATE 09/17/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/568,950	NAKAZAKI ET AL.	
	Examiner	Art Unit	
	Amina Khan	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to applicant's amendments filed on June 29, 2007.
2. Claims 1-9 are pending. Claim 1 has been amended. Claims 5-9 are new.
3. The rejection of claims 1-4 under 35 U.S.C. 103(a) as being unpatentable over Nishikawa et al. (US 4,620,852) is withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Dickmanns et al. (US 3,993,437).

Dickmanns et al. teach dyeing perlon yarn in compositions comprising sodium sulfide, 90g hydroxybenzene derivatives and hydroxyethylated octadecylamine at temperatures up to 110°C (column 10, example 3).

Accordingly, the teachings of Dickmanns et al. anticipate the material limitations of the instant claims.

The "consisting essentially of" language does not necessarily exclude the inclusion of other ingredients because "consisting essentially of" renders the composition open to the inclusion of unspecified ingredients which do not materially affect the basic and novel characteristics of the composition, see *Ex parte Davis et al.* (Bd of Appeals), 80 USPQ 448. Applicants have not submitted factual evidence showing that the additional components of Dickmanns et al. materially affect the instant invention.

6. Claims 1,4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Russ et al. (US 5,810,890).

Russ et al. teach dyeing nylon in compositions comprising trisodium phosphate, 2.8% hydroxybenzene derivative dyes and N-methyltaurine sodium salt at temperatures up to 98°C (column 26, examples 5 and 6).

Accordingly, the teachings of Russ et al. anticipate the material limitations of the instant claims.

The "consisting essentially of" language does not necessarily exclude the inclusion of other ingredients because "consisting essentially of" renders the composition open to the inclusion of unspecified ingredients which do not materially affect the basic and novel characteristics of the composition, see *Ex parte Davis et al.*

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(Bd of Appeals), 80 USPQ 448. Applicants have not submitted factual evidence showing that the additional components of Russ et al. materially affect the instant invention.

7. Claims 1,3,4,8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 68024207 B.

JP 68024207 B teaches treating dyed nylons with 1% tannic acid and acetic acid at 80°C and then treating with iron chloride solution at 70°C (abstract).

Accordingly, the teachings of JP 68024207 B anticipate the material limitations of the instant claims.

The "consisting essentially of" language does not necessarily exclude the inclusion of other ingredients because "consisting essentially of" renders the composition open to the inclusion of unspecified ingredients which do not materially affect the basic and novel characteristics of the composition, see *Ex parte Davis et al.* (Bd of Appeals), 80 USPQ 448. Applicants have not submitted factual evidence showing that the additional components of Russ et al. materially affect the instant invention.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamatsu et al. (US 5,221,289).

Miyamatsu et al. teach treating wool (column 1, lines 45-60) with tannic acid at a bath temperature of 50-95°C (column 4, lines 1-15), treating with the dyeing assistant tartar emetic (column 4, lines 1-15), and with iron salt mordants (column 4, lines 50-55) at temperatures of boiling (column 5, lines 1-5). None of these compositions comprise dyes.

Miyamatsu et al. do not teach all the claimed embodiments in a single example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Miyamatsu et al. to incorporate all the instantly claimed embodiments because Miyamatsu et al. clearly teach tanning and mordanting steps as essential in producing dyed articles with both dye affinity and color fastness (column 4, lines 15-20). Miyamatsu et al. further teach the products produced by these methods have deep shades with fast colors (column 6, lines 15-25). One of ordinary skill would have been motivated to select the claimed components from the teaching of Miyamatsu et al. absent unexpected results.

The "consisting essentially of" language does not necessarily exclude the inclusion of other ingredients because "consisting essentially of" renders the composition open to the inclusion of unspecified ingredients which do not materially affect the basic and novel characteristics of the composition, see *Ex parte Davis et al.* (Bd of Appeals), 80 USPQ 448. Applicants have not submitted factual evidence showing

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that the additional components of Miyamatsu et al. materially affect the instant invention.

10. Claims 1-4,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moeller et al. (WO 98/47472). The WO 98/47472 document is not in English so the English equivalent, US 6,203,579, is being used for citation purposes.

Moeller et al. teach dyeing wool and polyamide fibers (column 3, lines 1-10) with 0.03-65 mmol/100g colorant (column 4, lines 1-5) dihydroxybenzoic and trihydroxybenzoic acids (column 6, lines 1-10) in combination with metal salts such as iron salts (column 11, lines 25-40) and pH adjusting agents (column 10, line 64) at temperatures of less than 45°C (column 7, lines 40-55).

Moeller et al. do not teach all the claimed embodiments in a single example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Moeller et al. to incorporate all the instantly claimed embodiments because Moeller et al. clearly teach hydroxybenzoic acid and iron salts as advantageous in producing dyed articles with greater color brilliance and improved fastness properties (column 3, lines 35-55; column 11, lines 25-40). One of ordinary skill would have been motivated to select the claimed components from the teaching of Moeller et al. absent unexpected results.

The "consisting essentially of" language does not necessarily exclude the inclusion of other ingredients because "consisting essentially of" renders the composition open to the inclusion of unspecified ingredients which do not materially

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affect the basic and novel characteristics of the composition, see *Ex parte Davis et al.* (Bd of Appeals), 80 USPQ 448. Applicants have not submitted factual evidence showing that the additional components of Moeller et al. materially affect the instant invention.

11. Claims 1-4,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moeller et al. (WO 01/34106). The WO 01-34106 document is not in English so the English equivalent, US 6,790,239, is being used for citation purposes.

Moeller et al. teach dyeing wool and polyamide fibers (column 3, lines 55-65) with 0.03-65 mmol/100g colorant (column 5, lines 14-20) dihydroxybenzaldehydes and trihydroxybenzaldehydes (column 4, lines 1-15) in combination with metal salts such as iron salts (column 10, lines 20-35) and pH adjusting agents (column 9, line 59) at temperatures of less than 45°C (column 6, lines 20-30).

Moeller et al. do not teach all the claimed embodiments in a single example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Moeller et al. to incorporate all the instantly claimed embodiments because Moeller et al. clearly teach hydroxybenzaldehydes and iron salts as advantageous in producing dyed articles with excellent brilliance and color depth (abstract). One of ordinary skill would have been motivated to select the claimed components from the teaching of Moeller et al. absent unexpected results.

The "consisting essentially of" language does not necessarily exclude the inclusion of other ingredients because "consisting essentially of" renders the

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composition open to the inclusion of unspecified ingredients which do not materially affect the basic and novel characteristics of the composition, see *Ex parte Davis et al.* (Bd of Appeals), 80 USPQ 448. Applicants have not submitted factual evidence showing that the additional components of Moeller et al. materially affect the instant invention.

12. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pai (US 5,516,338).

Pai teaches treating wool (column 3, lines 25-30) with 0.1-5% tannins such as tannic acid (column 3, lines 55-60; column 4, lines 35-45) and a water soluble salt such as ferric titanate at a pH of 2.5-3.5 (column 2, lines 40-60) either simultaneously or in sequence (column 4, lines 45-55) at temperatures of boiling (column 5, lines 10-15). Pai teaches the addition of other mordants such as iron salts (column 8, lines 20-30).

Pai does not teach all the claimed embodiments in a single example.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Pai to incorporate all the instantly claimed embodiments because Pai clearly teaches tannic acids and iron salts as advantageous in producing dyed articles made from wool (abstract). One of ordinary skill would have been motivated to select the claimed components from the teaching of Pai absent unexpected results.

The "consisting essentially of" language does not necessarily exclude the inclusion of other ingredients because "consisting essentially of" renders the composition open to the inclusion of unspecified ingredients which do not materially

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affect the basic and novel characteristics of the composition, see *Ex parte Davis et al.* (Bd of Appeals), 80 USPQ 448. Applicants have not submitted factual evidence showing that the additional components of Pai materially affect the instant invention.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amina Khan whose telephone number is (571) 272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AM

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September 11, 2007

Lorna M. Douyon
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PRIMARY EXAMINER